IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTIETH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

and
THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 8904 of 2004

Between:

1 The Engineer-in-Chief (Admn.Wing), I & CAD Department, Errummanzil, Hyderabad.
2 The Chief Engineer, Major Irrigation and Delta Drainage Scheme, Erramanzil, Hyderabad.

..... PETITIONER(S)

AND

R.Satyanarayana, Assistant Engineer,
B.R.K.R.E.Govt.Offices Complex, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or direction more particularly one in the nature Writ of "Certiorari" and calling for the records relating to the order passed in O.A.No.50584/1991, dated 3-10-2002 on the file of Hon'ble A.P.Administrative Tribunal, Hyderabad and quash the same as illegal, arbitrary.

Counsel for the Petitioner:GP FOR SERVICES II

Counsel for the Respondent : None

The Court at the admission stage made the following :

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ORDER(Per Hon'ble Sri Justice Goda Raghuram)

This Writ Petition is filed aggrieved by the order dated 3-10-2002 in O.A.No.50584 of 1991 on the file of A.P.Administrative Tribunal. The writ petition has been filed on 8-4-2004 i.e. almost about 1½ years after the Order dated 3-10-2002 of the A.P.Administrative Tribunal. As the affidavit filed in support of the writ petition did not contain any averments whatsoever as to the cause for belatedly approaching this court against the order dated 3-10-2002, the petitioners filed an affidavit subsequently on 9-8-2004 on being called upon by this Court to state the circumstances why the delay was occasioned. The affidavit now filed purportedly intending to explain the delay in filing the writ petition, has this is to state as the reasons for the delay.

> *" 2) I submit that the respondent who was applicant in the O.A made a representation on 24-10-2002 duly enclosing the copies of O.A.dated 3-10-2002 and requested to implement the same.*
>
> *3) I submit that on receipt the said representation, immediately a copy of counter affidavit filed in the said O.A. alongwith a report on the implementation of A.P.A.T. orders dated 3-10-2002 has been called for from the Chief Engineer, Major Irrigation (Delta Drainage Scheme) Hyderabad, under whom he is working, vide Lr. No.Rc.ENC/J3/33693/02, dated 26-10-2002. It was also requested there-on to take necessary action on the A.P.A.T.orders dated 3-10-2002.*

4) I submit that the E.N.C., Drainage wing, Hyderabad, in his letter dated 2-11-2002 by enclosing a copy of counter affidavit has informed that the order appointing the applicant as Assistant Engineer was issued by the ENC (A.W.), hence the promotion to the applicant as Draughtsman Ist grande can not be issued as he is not working on the feeder cadre of Draughtsman IInd grade. Hence action to implement the orders of A.P.A.T. may be taken at E.N.C.(A.W.) level.

5) I submit that, further the Chief Engineer, Drainage,unit Hyderabad, in his letter dated 4-1-2003 has requested to take early action in the matter as the applicant is having only 10 months service for retirement. The Chief Engineer has also requested to take into account the aspect mentioned there-on, before issuing an order. (The applicant is L.M.E. which is not eligible for further promotion.

6)I submit that the E.N.C., Drainage unit in his letter dated 17-01-03 and 5.2.03 has sought for early orders in the matter while matter stood this Sri.R.Satya Narayana, Assistant Engineer has filed contempt application No.320/2003 in O.A.No.50584/91, on 3.4.2003.

7) I submit that, the Government Pleader,A.P.A.T.,Hyderabad, in his letter dated 3.4.2003 by informing about filing of the contempt application has requested to send two sets for parawise remakrs and records to finalisation the counter affidavit.

8) I submit that the E.N.C., Drainage Wing,Hyderabad, in his Lr.No.C.E./D1/4201/92, dated 24-4-2003 addressed to this office by submitting the Brief History of the case, has enclosed the copy of counter Affidavit dated 9-5-1992 and additional counter Affidavit dated 4.3.1997, filed in O.A.and also stated that the individual is available with the Superintending Engineer G.W.Circle,Hyderabad, if necessary if may be obtained from the Superintending Engineer, G.W.Circle,Hyderabad.

9)I submit that, as desired by this office, the E.N.C., Drainage Wing,Hyderabad., with his Lr.No.C.E./D.R/4201/92,dated 13.5.2003 has submitted the draft parawise replies alongwith the Service Book in C.A.No.320/2003, in O.A.No.50584/1991.

10) I submit that in this office L.R.No: Rc/ENC/J3/33693/02 dated 10.6.2003, parawise replies in C.A.No.320/03 in O.A.No.50584/91 was sent to Government Pleader,A.P.A.T.,Hyderabad, for its approval, and filing counter affidavit.

11) I submit that, Sri R.Satya Narayana, A.E. has filed another O.A.No.4871/2003, in A.P.A.T. requesting to consider his name for promotion to the post of Deputy Executive Engineer in the quota meant for Draughtsman Grade-I. The Government Pleader in his letter dated 7.8.2003 has called for the parawise replies to above O.A.

12) I submit that, the Government Pleader, A.P.A.T.,Hyderabad, in his letter dated 25.8.2003, has asked to depute the concerned official with records for finalizing the parawise replies.

13)I submit that, counter affidavit in O.A.No.4871/2003 was sent to Government pleader, A.P.A.T., Hyderabad, in Lr.No.J3/3693/03 dated 29.08.2003.

14)I submit that, the Government in their Memo. dated 25.09.2003 have requested this office to file counter Affidavit on behalf of all the respondents in the O.A.

15) I submit that, during the discussion on 23.9.2003, the Government Pleader,A.P.A.T.,Hyderabad, has opined to file on appeal before the Hon'ble A.P.High Court contenting the A.P.A.T.orders in O.A.No.50584/91 as the orders pronounced by the A.P.A.T. are against the subsidiary rules.

16) I submit that after the opinion of Govt. Pleader,A.P.A.T., necessary orders were ascertained and approached the Government Pleader High Court for filing the W.P. and after approval of affidavit the present W.P. is filed in April, 2004 and therefore, the delay in filing the W.P. has occasioned and which delay is neither willful nor wanton but for the circumstances stated supra."

None of the averments set out in the affidavit extracted supra anywhere explain as to why the writ petition could not be filed in time against the order dated 3-10-2002 of A.P.Administrative Tribunal. What has been set out is a mere chronicle of events and not any reasons for the delay. The filing of the contempt case by the

respondent herein and another O.A.No.4871 of 2003, claiming benefits pursuant to the earlier order dated 3-10-2002 (impugned herein) appears to have prompted the filing of the writ petition and not any genuine grievance regarding the order of Tribunal dated 3-10-2002. There is discernably clear negligence and lassitude on the part of the petitioners herein in pursuing the litigation. The delay has not been explained at all.

In the circumstances, we find no reason to interfere with the order dated 3-10-2002.

The W.P. is dismissed on the ground of delay and laches.There shall be no order as to costs.

J.CHALMESWAR,J

GODA RAGHURAM,J

30th August,2004.

Stp

Sd/-

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Engineer-in-Chief (Admn.Wing), I & CAD Department, Errummanzil, Hyderabad.
2 The Chief Engineer, Major Irrigation and Delta Drainage Scheme, Erramanzil, Hyderabad.

3.2CCs to G.P.for Services II, A.P.High Court Buildings (OUT)

2.2CD copies

THE HON'BLE MR JUSTICE J.CHELAMESWAR

and

THE HON'BLE MR JUSTICE GODA RAGHURAM

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